

**CERTIFIED**

[REDACTED]

Person to Contact: [REDACTED]

Telephone Number: [REDACTED]

Refer Reply to: [REDACTED]

[REDACTED]

Date: DEC 03 1990

Dear Applicant:

We have considered your application for recognition of exemption from Federal Income Tax under Section 501(c)(3) of the Internal Revenue Code of 1986.

The information submitted discloses that you were incorporated on [REDACTED] under the nonprofit corporation laws of the State of [REDACTED]

According to your Articles of Incorporation and your Amended Articles of Incorporation, the purposes for which the corporation is organized are:

1. To promote education and research activities regarding the past; present and future status of [REDACTED];
2. To preserve the [REDACTED] in the traditional [REDACTED];
3. To continue and to improve the quality of the [REDACTED];
4. To inform and to discuss with the vendors, shoppers, interested and involved populace the problems facing the [REDACTED], and to obtain input from these people as to the methods of combating and solving such problems;
5. To develop a liaison relationship between the [REDACTED] ([REDACTED]) and City, State and Federal officials to help preserve, improve and promote the [REDACTED] and
6. To promote and to develop a quality [REDACTED] for all people.

Membership in your organization is limited to "active [REDACTED] vendors" who were later determined to be for-profit entities. Only members of the organization, who are active vendors may officiate as officers/board or directors.

Proposed goals of the organization are described per the attached Exhibit A.

As a result of the expansion of the [REDACTED] in exercising their right of eminent domain, the continued existence of the [REDACTED] has been threatened.

Code	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Surname	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Date	11/26/90	11/26/90	11/26/90	11-26-90	11-26-90
Correspondence Approval and Clearance					

Department of the Treasury/Internal Revenue Service

\*U.S. GPO 1989-244-484

Section 501(c)(3) of the Code provides for the exemption from Federal Income Tax of corporations organized and operated exclusively for religious, charitable, literary, scientific, and educational purposes; no part of the net earnings of which inures to any private shareholder or individual.

Section 1.501(c)(3)-1(e)(1) of the Income Tax Regulations provides that "an organization will be regarded as 'operated exclusively' for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in Section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose."

Section 1.501(c)(3)-1(d)(1)(ii) of the Income Tax Regulations provides that an organization is not organized and operated exclusively for exempt purposes unless it serves a public rather than a private interest. Thus, it is necessary for an organization seeking exemption under Section 501(c)(3) to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

Section 1.501(c)(3)-1(d)(2) of the Income Tax Regulations defines the term "charitable" to include the advancement of education and the promotion of social welfare by organizations designed to combat community deterioration.

Section 1.501(c)(3)-1(d)(3) of the regulations defines the term "education" as relating to (a) the instruction or training of the individual for the purpose of improving or developing his capabilities or (b) the instruction of the public on subjects useful to the individual and beneficial to the community. An example in this section states that an organization whose activities consist of presenting public discussion groups, forums, panels, lectures, or other similar programs, may be an educational organization.

In construing the meaning of the phrase "exclusively for educational purposes" in Better Business Bureau vs. U.S. 326 U.S. 279 (1945) the Supreme Court of the United States said, "This plainly means that the presence of a single non-educational purpose, if substantial in nature will destroy the exemption regardless of the number or importance of truly educational purposes." This statement applies equally to any category of charitable purpose under Section 501(c)(3) of the Code.

In Gondia Corp., 44 TCM, Dec. 39,214(M), TC Memo 1982-422, an organization was held not to be exempt where its substantial purpose was to promote its founder's ideas and writings for the founder's benefit.

In A.H. Nittler, 39 TCM 422, Dec. 36,416(B), TC Memo 1979-440, the court upheld the denial of tax-exempt status to both a corporation and trust which were found to have served the business and private interests of their creators rather than any public interest specified in Code Section 501(c)(3). Contributions were also not deductible.

As the officers and the board of directors of your organization are also active licensed for-profit vendors of the [REDACTED], their particular concern in the preservation of [REDACTED] serves a personal/private interest similar to the court case, A.H. Nittler, as opposed to a public interest. The interest of the public would only be the purchasing of items at the flea market, which is no different than purchasing products at a discount store. Much of the organization's proposed time would actually be directed towards promoting revitalization, monitoring city planning processes, lobbying for better city services for the [REDACTED] area, creating a regulatory body for [REDACTED], seeking permanent structures for the Market as well as enhancing the overall operation of [REDACTED]. Such activities are not construed as being educational nor charitable in conjunction with the regulations stated above.

While you did state, per phone conversation, that you as representatives of the organization had appeared at various universities discussing the bartering and trading atmosphere of [REDACTED], the time involved in such activity is insubstantial to the overall purposes of the organization.

The primary focus of the organization is to maintain an open air selling flea market, similar to any other flea market and provision of services for the members related solely to the market and therefore not an exempt activity under Section 501(c)(3) of the Code.

We have concluded, based upon the facts and evidence on file, that you are not operated exclusively as a charitable or educational organization described in Section 501(c)(3) of the Code because a substantial amount of your activities and operations are directed towards the improvement and advancement of the professional interest of your members.

Accordingly, we have concluded that you are not entitled to recognition of exemption from Federal Income Tax under Section 501(c)(3) of the Code, since you are not organized and operated exclusively for charitable, religious, or other exempt purposes within the meaning of Section 501(c)(3).

You are required to file Federal Income Tax Returns.

Contributions made to you are not deductible by the donors as charitable contributions as defined in Section 170(c) of the Code.

If you do not agree with these conclusions, you may within thirty days from the date of this letter, file a brief of the facts, law and arguments (in duplicate) which clearly sets forth your position. In the event you desire an oral discussion of the issues, you should so indicate in your submission. A conference will be arranged in the Regional Office after you have submitted your brief to the Chicago District Office and we have had an opportunity to consider the brief and it appears that the conclusions reached are still unfavorable to you. Any submission must be signed by one of your principal officers. If the matter is to be handled by a representative, the Conference and Practice requirements regarding the filing of a power of attorney and evidence of enrollment to practice must be met. We have enclosed Publication 892, Exempt Organization Appeal Procedures for Adverse Determinations, which explains in detail your rights and procedures.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service".

Please keep this determination letter in your permanent records.

If you agree with this determination, please sign and return the enclosed Form 6018.

If we do not hear from you within 30 days from the date of this letter, this determination will become final. In accordance with Code Section 6104(c), we will notify the appropriate State officials of this action.

Sincerely yours,

  
District Director

**Enclosures:**

Publication 892  
Form 6018

## Proposed Goals for [REDACTED]

1. Preserve the [REDACTED]
  - For its historic value
  - For its present cultural and economic values (as unique part of city scene, a weekly gathering from all ethnic and economic groups and serving everyday needs of working people and collectors.)
  - For the future cultural and economic values of an enhanced Market
  - Support development freeze in area until adequate plan for Market preservation is in place
  - Pursue designation of area as historic district, so that by law all development in area must be compatible with the Market
  - Determine legal status of the Market
  - Petition drive to preserve the Market
2. Monitor and participate in planning processes of city, university and private developers.
  - Gather information on those processes, on any existing development plans, on current ownership, zoning, etc, of Market-area property.
  - Appoint liaisons to various planning authorities.
  - Present planners with coherent and unified voice of Market vendors and consumers
3. Propose independent plan for development of area
  - To influence & provide alternative to other planning processes and to get key elements implemented.
  - The plan should provide for the preservation and enhancement of the Market and should propose mixed-used neighboring development compatible with and supportive of the Market.
  - Explore area east of [REDACTED] for possible extension of Market activity
  - Prepare detailed description of planning proposal, with drawings & models
4. Seek permanent structures to house Market activity
  - Structures must be flexible, low-maintenance, with truck access for vendors, garbage collection, recycling, etc.
  - Tailor structures for different categories of sellers and provide for a certain number of occasional vendors
  - Group vendors by type of activity
  - Provide performance areas for musicians
5. Pursue revitalization of [REDACTED] proper (the blocks immediately east and west of [REDACTED])
  - Existence of structures there provides stronger basis for landmark status and focus for preservation activities
  - [REDACTED] is historic and emotional center of the Market

6. Lobby for needed city services
  - Garbage collection & recycling
  - Police protection
  - Continued issuance of new vendor licenses
  - Solution to traffic problems
  - End illegal dumping and keep area clear
  - Public toilets
7. Creation of a separate self-regulatory body for the Market
  - Determine vendor concerns, priorities by survey, discussion
  - Assign slots
  - Regulate food preparation and sale
  - Code of ethics, such as no sale of merchandise stolen from other vendors, etc.
  - Crime control
  - Support services: washroom facilities, telephones, electricity, etc.
  - Enhance quality of Market
  - Provision of parking
  - Encourage diversity of vendors
8. Publicity & Promotion
  - Publicize Market, music through calendar listings, media stories, advertising, handbills, T-shirts, tourist itineraries, etc.
  - Publicize planning issues and peril to Market from development of the area
  - Revive tourist interest in the Market and historic [REDACTED]
  - Bring special events--fairs, etc.--to Market
  - Contact successful businesses, prominent people with roots in [REDACTED]
  - Prepare flier giving history of Market
  - Compile resource file on history of Market
  - Establish ties with neighborhood and citywide groups
9. Explore extension of Market to Saturday and provision for daily selling
- 10.. Sponsor educational programs to teach trades and business.